



Request for Qualifications February 2, 2016



International Marketplace Mixed-Use Zoning District Plan and Development of Replicable Model MU-District Plan and Process

Project Summary

The City of Indianapolis Department of Metropolitan Development (DMD), in conjunction with the International Marketplace Coalition (IMC), is requesting qualifications from firms with demonstrated national transit-oriented development planning experience to lead a mixed-use district planning exercise within the International Marketplace district, including the designated Community Revitalization Enhancement District (CRED). This exercise will result in the creation of a plan that meets the prescribed requirements of new mixed-use (MU) district-scale zoning classifications provided in the new zoning ordinance, IndyRezone. This exercise shall also result in the establishment of a model process with DMD long range planning staff for replication in future MU processes.

The goals of this project therefore are twofold: (1) identify an appropriate area within the International Marketplace as a potential future mixed use district, build property and business owner support for the concept and develop the necessary village land use plan to support MU zoning designation by the MDC, and (2) develop a 'standard operating procedure' (SOP) for DMD Planning staff to utilize when evaluating and planning other areas for possible enabling of mixed-use village districts or transit-oriented development through MU-3 or MU-4 zoning.

Background Information

The International Marketplace, formerly known as Lafayette Square, is a highly automobile-oriented district located 7 miles northwest of downtown Indianapolis anchored by the struggling Lafayette Square Mall, built in 1968. While significant vacant and underutilized commercial land remains, the area continues to serve some regional shopping needs, with Meijer and Wal-Mart discount stores and a mix of other smaller national tenants. More recently, diverse populations in adjacent neighborhoods (more than 70 languages are spoken in the area) and affordable rent have made the area attractive to international entrepreneurial restaurants and retail.

In order to spur redevelopment, the State of Indiana established a Community Revitalization Enhancement District (CRED) that captures a certain amount of State sales and income tax revenue for a defined time period to support reinvestment in the area.

The International Marketplace has a number of unique strengths and challenges that need to be considered during this planning process. Many of these issues are addressed in detail in area plans completed in 2010 and 2011 and in subsequent materials and reports. The following list outlines some of the key considerations, but should not be considered exhaustive:



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- The area was primarily developed between 1970 and 1990 as a suburban regional shopping destination, and it is currently zoned as such.
- Since its peak as a regional shopping destination in the 1990s, the national retail landscape has changed, resulting in the closing and ongoing vacancy of 'big box' retail buildings and new car dealerships, in particular.
- Many of the (larger) properties are owned or controlled by property development/management companies that have an extensive history in the City of Indianapolis, while other sites are controlled by out-of-town investors.
- Low barriers to entry have nourished a variety of ethnic and immigrant-owned businesses and redevelopment of the area should not push these businesses elsewhere.
- West 38th Street and Lafayette Road are primary arterial streets and carry a significant volume of commuter traffic.
- West 38th Street is currently served by IndyGo Route 39 and is the proposed route of the "Purple Line" rapid transit corridor.

In 2010, the City adopted the comprehensive plan segment *An International Marketplace: the Lafayette Square Area Plan*, which is the controlling land use plan for this area. Subsequently, in 2011, DMD and the International Marketplace Coalition completed the *International Marketplace Gateway Study*, which developed gateway and streetscape improvement concepts to rebrand the area as the International Marketplace. This Study also made recommendations to improve pedestrian and multi-modal access to the area to support continued redevelopment, and presented some visioning about what a long term redevelopment of the area might entail. Gateway and streetscape enhancements and some pedestrian infrastructure improvements were installed in 2014, and additional improvements are proposed to occur in 2016.

In addition to the plans and public improvements, the City and IMC, in conjunction with the Local Initiatives Support Corporation (LISC), have implemented a property improvement program, which provides matching grants to support the redevelopment, renovation and modernization of properties by private ownership. Additional redevelopment opportunities in the International Marketplace are also being considered.

Concurrent with the stakeholder's efforts within the International Marketplace, DMD led an initiative to rewrite the Marion County zoning ordinance, which was commonly referred to as "IndyRezone." The intent of IndyRezone was to modernize the County's 1960s-era zoning ordinance in order to encourage (re)development in line with 21st Century best practices, including more provisions for mixed-use development. The IndyRezone ordinance will become effective on April 1, 2016.

One facet of IndyRezone was the introduction of new mixed use (MU) zoning districts (Revised Code of the Consolidated City of Indianapolis – Marion County, Chapter 742. Section 05. Mixed-



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Use Districts.) Specifically, the MU-3 and MU-4 Districts require the adoption, by the Metropolitan Development Commission (MDC), of a 'village land use plan,' specifying certain development standards within the MU zone. Following adoption of the plan, the MDC would then proactively rezone the properties within the proposed district to the new MU classification. As the MU Districts do not yet exist, this MU planning process has yet to occur in Indianapolis-Marion County.

Also, concurrent with the stakeholder's efforts, the IndyRezone initiative is planning for a bus rapid transit network known as IndyConnect. One route in this plan, the Purple Line, is planned to utilize 38th Street through the International Marketplace area. A federal Small Starts grant application is pending with the Federal Transit Administration for the first phase of one of these lines (the Red Line), but construction of the complete system will require passage of a voter referendum that could occur as early as November 2016.

Reference Information

Additional information regarding the redevelopment objectives and the overall design concept for the International Marketplace and a copy of the *International Marketplace Gateway Study* can be found online at: <http://www.imcoalition.org/>.

An International Marketplace: the Lafayette Square Area Plan can be found online at: http://www.indy.gov/eGov/City/DMD/Planning/Docs/LandUse/Neighborhood/lafayette_square_np10.pdf

The text of the adopted zoning ordinance (IndyRezone) can be found online at: <http://www.indy.gov/eGov/City/DMD/Current/Pages/ordinance.aspx>

Additional information on the IndyConnect rapid transit plan can be found at <http://www.indyconnect.org>, and detailed plans for the Red Line, the first of the lines to be built, can be found at <http://www.indygo.net/redline/>.

Scope of Work/Deliverables

The selected contractor will review previous area plans and reports and work closely with DMD and the IMC to solicit stakeholder input to identify a potential mixed-use zoning area in the International Marketplace, centered on either West 38th Street and/or Lafayette Road. This stakeholder input will include area business owners, property owners, community and political leaders, City staff, and local and/or national real estate market experts. Utilizing the information gained, the contractor will work with DMD staff and a stakeholder committee to draft the MU area plan for this identified area that includes the elements and structure required by the amended ordinance requirements for MU District Plans. While a zoning plan and not a vision or urban design plan, the plan should also be supplemented with aspirational standards or design guidelines that will not be code requirements, but will inform the DMD, IMC, MDC and other relevant parties when reviewing development plans and considering public incentives for a project. The plan should also be supplemented with a phased, feasible, and



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market-based implementation strategy for any necessary parcelization strategy, replatting and new or reconfigured street infrastructure that will inform other holding plans.

In addition to the actual International Marketplace MU District Plan and supplemental materials, the contractor will also work with DMD staff to develop a standard operating procedure for the creation of an MU District (plan) that is suitable for replication by City staff in a variety of situations around the County. This will require substantial engagement of DMD planning staff throughout the planning process and an understanding that they will need to be integrated into the consultant team, which together will develop the International Marketplace model MU planning process and plan.

This project is intended to establish both the model product (the plan) and the process that City staff will replicate in future MU district planning efforts. This project does not include assistance by the contractor for the potential MDC and City-County Council rezoning adoption process, which will be handled by City staff exclusively.

MBE/WBE/VBE Participation

See attached Exhibit B.

Statement of Qualifications

Proposals should include the following information. Please provide information for the prime firm and any sub consultants on your team.

1. Identification of and roles of prime and sub consultants, including MBE/WBE/VBE status.
2. Introduction of firm highlighting firm history, specialties, etc.
3. A one page narrative demonstrating an understanding of the project and project area.
4. Past national or international project experience on mixed-use district and/or transit-oriented development planning or development in an urban context.
5. Past experience in in best practices in greyfield/automobile-oriented district redevelopment into village-style development patterns.
6. Past experience understanding and using market-based analyses to inform realistic and implementable plans and zoning codes.
7. Vendor's experience in detail in planning and engagement activities in multi-ethnic, multi-cultural, and multi-racial neighborhoods.
8. Identification of key staff members assigned to the project and a current resume for each highlighting project role, experience and skills.
9. Professional references, preferably relating to projects of similar size and scope.
10. A schedule of the work, by task, describing estimated time of completion. The schedule shall indicate key milestones and all points at which decisions, information, and meetings are to be provided by the DMD.



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Contractual Terms

The Vendor(s) should review the sample Professional Services Agreement (PSA) attached hereto as Exhibit C. Additional provisions as needed or required by the City are contained in the PSA and will be discussed with the Vendor(s) selected. The Vendor(s) does NOT need to sign the PSA, but review it, and note any areas that need to be discussed with the City if selected. The final Agreement will include similar language to that shown in the PSA and specific language pertaining to this RFQ. Note: Any proposed exceptions or revisions to the PSA or the RFQ must be listed in detail on the exceptions page which follows the PSA. Proposed exceptions or revisions to the PSA will not be considered by the City if they are not submitted with the RFQ.

Pursuant to IC 22-5-1.7, all public contracts for services entered into or renewed after June 30, 2011, must contain E-Verify provisions. Any Contractor entering into a service agreement with the City or County shall submit an affidavit of compliance that provides vendor acknowledgment of and commitment to the E-Verify Program. A sample of the affidavit can be found at the end of the PSA. Additional information can be viewed on the Purchasing Division web site at www.indy.gov/purch/BiddingOpportunities. (Reference 5.24 of the PSA)

Vendor must meet the City's minimum insurance requirements as specified in the attached Professional Services Agreement requirements.

- a. Submission shall include an acknowledgement of the City's required terms and your willingness to comply.
- b. A copy of the Insurance Certificate with the proper coverage and the City of Indianapolis listed as the Additional Insured shall be required prior to contract execution.

Timeline

All interested parties should electronically notify Ryan Hunt, Program Manager (ryan.hunt@indy.gov) by 4:30 p.m. on Monday, February 22, 2016 of their interest in the project. All questions regarding the RFQ should be submitted electronically to Ryan Hunt (ryan.hunt@indy.gov) by 4:30 p.m. on February 22, 2016. Responses to the questions shall be provided to all parties whom have indicated interest in the project no later than February 29, 2016.

The intended schedule would require the MU District plan and the 'MU standard operating procedure' completed in the Summer of 2016, in order to allow the MDC to consider a MU rezoning petition in the Fall of 2016.

Submittal Deadline: 5:00pm, March 7, 2016

Submit proposals to: Ryan Hunt
Department of Metropolitan Development
City County Building
200 E. Washington Street



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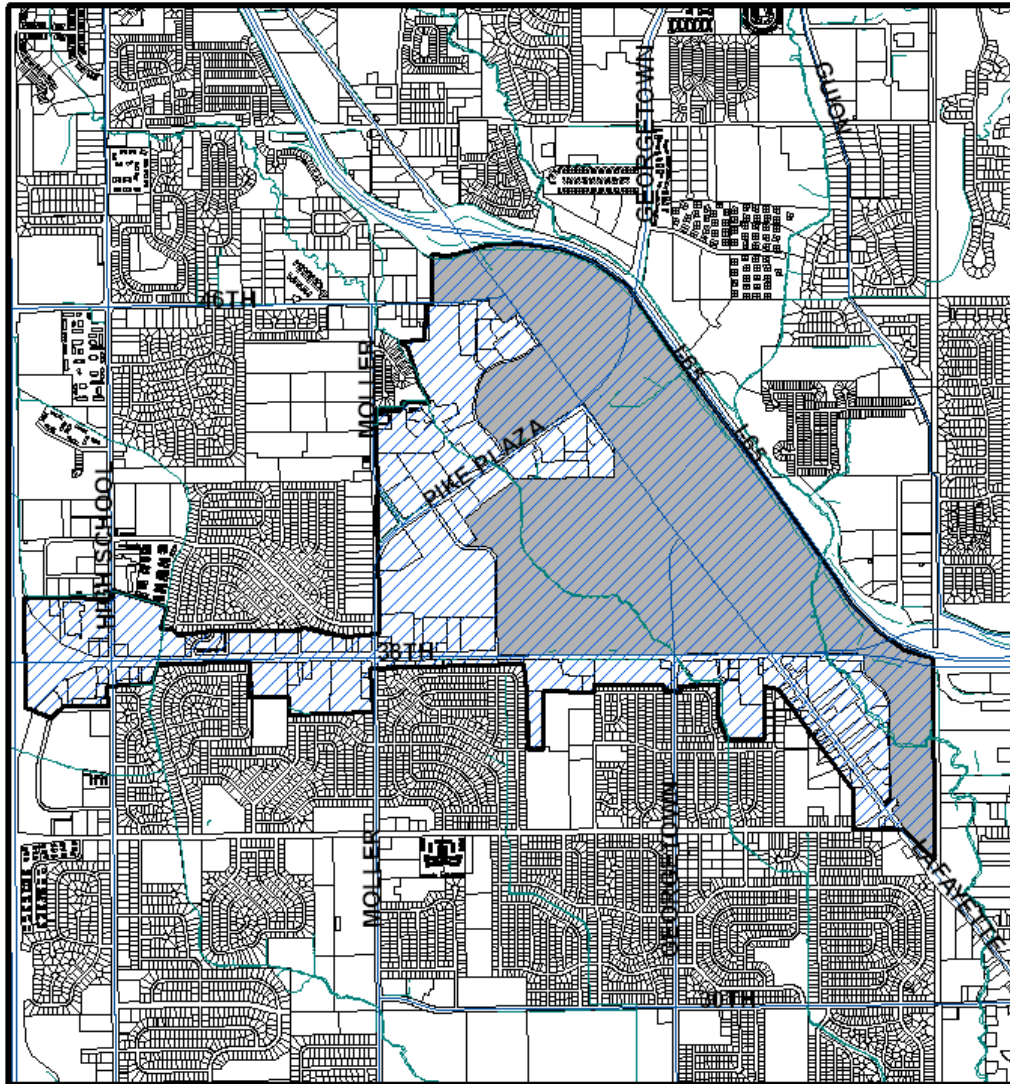
Room 2042
Indianapolis, IN 46204
ryan.hunt@indy.gov

Please submit an electronic copy of the responding qualifications (CD/DVD or flash drive) in addition to at least seven bound hard copies.




Submissions will be reviewed and evaluated on a qualifications basis. After the RFQ responses have been reviewed and evaluated, qualified providers may be required to interview, if necessary. Following selection of the top candidate, a final scope and fee will be negotiated. In the event that a scope and fee cannot be negotiated with the winning team, the City reserves the right to move to the next highest ranked team.

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International Marketplace Boundaries



Legend

-  International Marketplace Area
-  Existing Lafayette Square CRED
-  Parcels



0 1,625 3,250 6,500
Feet

Produced by DMD/CED, May 15, 2014



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**Exhibit B
MBE/WBE/VBE/DOBE Participation**

It is the policy of the City that Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Veteran Business Enterprises (VBEs), and Disability-Owned Business Enterprises (DOBEs) shall have the maximum feasible opportunity to participate in the performance of contracts. Consequently, the City, through Article IV, Section 202-401 of the revised municipal code and Executive Order 5, 2008, has established MBE participation goals of 15%, WBE participation goals of 8%, VBE participation goals of 3%, and DOBE participation goals of 1% for its dollars spent on public works, goods, and services.

In order to help accomplish this goal, the City is requesting that you include with your response information regarding your status as an MBE, WBE, VBE, or DOBE. Additionally, please include contact information for any MBE, WBE, VBE, or DOBE owned Vendors directly participating in your business operations. The City also requests contact information for any MBE, WBE, VBE, or DOBE sub-contractors that you might use in the course of doing business with the City. Some examples of this kind of service include, but are not limited to: office suppliers, courier services, shipping services, etc. These services can occur at the local, state, or national level. Please include an estimated percentage or dollar amount that you anticipate using.

Be advised that the information provided on MBE/WBE/VBE/DOBE participation will be included as part of the scoring criteria for this RFQ. Accordingly, it is imperative that you do everything possible to obtain the information above and supply it as part of the Proposal.

In order to be recognized by the City of Indianapolis/Marion County as an MBE/WBE/VBE/DOBE participant, your company must be certified with the Department of Minority & Women Business Development (DMWBD). The City will recognize only City of Indianapolis certified firms regardless of any other state or national affiliation.

If you should need assistance in obtaining information or certification for possible participation in a contract, please contact the DMWBD on the Internet at <http://www.indy.gov/eGov/City/DMWBD/MBE-WBE-VBE/Pages/Certification.aspx> or by phone at (317) 327-5262. Respondents can view a list of City DMWBD approved MBE/WBE/VBE vendors by going to this web page: <http://www.indy.gov/eGov/City/DMWBD/MBE-WBE-VBE/Pages/VendorProfile.aspx> and selecting the appropriate "Vendor List".



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**Exhibit C
Sample Professional Services Agreement (PSA)**

**PROFESSIONAL SERVICES
AGREEMENT**

This Professional Services Agreement (hereinafter referred to as "Agreement"), entered into by and between the Consolidated City of Indianapolis and Marion County XXXXXX (hereinafter referred to as "City") and XXXXX (hereinafter referred to as "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

SECTION I. INTERPRETATION AND INTENT

1.1. The "Agreement", as referred to herein, shall mean this Agreement executed by City and Contractor, and shall include these Terms and Conditions, the Attachments described in Sections II and IV and attached hereto, all addenda issued prior to receipt of RFPs, quotes, or bids, whether or not receipt thereof has been acknowledged by Contractor, all conditions, plans, specifications and standards, instructions and notice to vendors, and any written supplemental agreement or modification entered into between City and Contractor, in writing, after the date of this Agreement.

1.2. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between City and Contractor. No statements, promises or agreements whatsoever, in writing or verbal, in conflict with the terms of the Agreement have been made by City or Contractor which in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This Agreement may be amended and modified only in writing signed by both City and Contractor.

1.3. In resolving conflicts, errors, discrepancies and disputes concerning the scope of the work or services to be performed by Contractor or other rights or obligations of City or Contractor the document or provision thereof expressing the greater quantity, quality or scope of service or imposing the greater obligation upon Contractor and affording the greater right or remedy to City, shall govern.

1.4. Any interpretation applied to this Agreement, by the parties hereto, by an arbitrator, court of law, or by any other third party, shall not be made against City solely by virtue of City or City's representatives having drafted all or any portion of this Agreement.

1.5. This Agreement shall include, and incorporate by reference, any provision, covenant or condition required or provided by law or by regulation of any state or federal regulatory or funding agency.

2. DUTIES OF CONTRACTOR



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2.1. Contractor shall provide services as specified in Attachment A, _____, attached hereto and incorporated into this Agreement.

3. TERM

3.1. The term of this Agreement shall begin upon execution date of this Agreement by all parties and shall terminate on _____ unless terminated earlier in accordance with this Agreement.

3.2. This Agreement may be renewed by agreement of parties. The term of the renewal may be less but shall not be longer than the term of the original Agreement. A renewal shall be only by written instrument signed by both City and Contractor and attached hereto as an amendment. All other terms and conditions of the Agreement shall remain the same as set forth herein.

4. COMPENSATION

4.1. Contractor proposes to furnish all labor, materials and supplies in accordance with the conditions of this Agreement necessary to complete the work as defined in Attachment A at the rates set forth in Attachment B, attached hereto and incorporated herein. However, in no event shall compensation for services under this Agreement exceed _____ (\$XXXX.XX).

4.2. Contractor shall submit a properly itemized invoice for services performed and expenses incurred under this Agreement and shall cooperate with and provide any other necessary information to City. City will pay Contractor within thirty (30) days after receipt of such properly itemized claim forms.

5. GENERAL PROVISIONS

5.1. Independent Contractor. The parties agree that Contractor is an independent contractor as that term is commonly used and is not an employee of the Consolidated City of Indianapolis and/or Marion County. As such, Contractor is solely responsible for all taxes and none shall be withheld from the sums paid to Contractor. Contractor acknowledges that it is not insured in any manner by City for any loss of any kind whatsoever. Contractor has no authority, express or implied, to bind or obligate City in any way.

5.2. Subcontracting.

5.02.1 Approval required - The parties agree that Contractor shall not subcontract, assign or delegate any portion of this Agreement or the services to be performed hereunder without prior written approval of City. In the event that City approves of any such subcontracting, assignment or delegation, Contractor shall remain solely responsible for managing, directing and paying the person or persons to whom such responsibilities or obligations are sublet, assigned or delegated. City shall have no obligation whatsoever toward such persons. Contractor shall take sole responsibility for the quality and quantity of any services rendered by such persons.



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Any consent given in accordance with this provision shall not be construed to relieve Contractor of any responsibility for performing under this Agreement.

5.02.2 Minority, Women, Veterans, and Disability-Owned Business Enterprise Participation - To the extent Contractor uses subcontractors or other agents in the performance of services under this Agreement, Contractor shall either:

Use, at a minimum, fifteen percent (15%) Minority Business Enterprises, eight percent (8%) Women's Business Enterprises, three percent (3%) Veteran's Business Enterprises, and one percent (1%) Disability-Owned Business Enterprises in the performance of services under this Agreement; or

Demonstrate a good faith effort to achieve such percentages, in compliance with the policies and to the satisfaction of the City of Indianapolis Department of Minority & Women Business Development.

Violation of this Subsection shall constitute a breach of this Agreement.

5.03 Necessary Documentation. Contractor certifies that it will furnish City, if requested, any and all documentation, certification, authorization, license, permit, or registration required by the laws or rules and regulations of the City of Indianapolis, the County of Marion, other units of local government, the State of Indiana, and the United States. Contractor further certifies that it is now and will remain in good standing with such governmental agencies and that it is now and will maintain its license, permit, registration, authorization, or certification, as applicable, in force during the term of this Agreement. Failure of Contractor to comply with this paragraph shall constitute a material breach of this Agreement.

5.04 Confidentiality.

5.04.1 The obligations of this section shall survive the termination of this Agreement and shall be applicable to the full extent permissible under statutes governing access to public records. Contractor understands that the information provided to it or obtained from City during the performance of its services is confidential and may not, without prior written consent of City, be disclosed to a person not in City's employ except to employees or agents of Contractor who have a need to know in order to provide the services. Further, Contractor's work product generated during the performance of this Agreement is confidential to City. The failure to comply in all material respects with this section shall be considered a material breach of this Agreement. Confidential information shall not include information, that: (a) was known by Contractor at the time it was received; (b) is, as of the time of its disclosure or thereafter becomes, part of the public domain through a source other than Contractor; (c) is made known to Contractor by a third person who does not impose any obligation of confidence on Contractor with respect to such information; (d) is required to be disclosed pursuant to governmental authority, law, regulation, duly authorized subpoena or court order whereupon Contractor shall provide notice to City prior to such disclosure; or (e) information that is independently developed by Contractor without references to the confidential information.



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5.04.2 Contractor shall not, under any circumstances, release information provided to it by, or on behalf of, City that is required to be kept confidential by City pursuant to Indiana law except as contemplated by Section 5.04.1(d), above.

5.04.3 Contractor acknowledges that City will not treat this Agreement as confidential information and will post the Agreement on the City of Indianapolis website as required by Section 141-105 of the Revised Code of the Consolidated City of Indianapolis and Marion County. Use by the public of any document or the information contained therein shall not be considered an act of City.

5.05 Records; Audit. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance of services under this Agreement. Contractor shall make such materials available at its offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under this Agreement for inspection by City or any other authorized representative of the City of Indianapolis, Marion County, Indiana. Copies thereof, if requested, shall be furnished at no cost to City.

5.06 Ownership.

5.06.1 "Works" means works of authorship fixed in any tangible medium of expression by Contractor or its officers, employees, agents or subcontractors in the course of performing the services under this Agreement, including, but not limited to, computer programs, electronic art, computer generated art, notes, specifications, drawings, flow charts, memoranda, correspondence, records, notebooks, documentation, reports and charts, regardless of the medium in which they are fixed, and all copies thereof.

5.06.2 All Works made or created by Contractor, either solely or jointly with City, in the course of Contractor's performance of services under this Agreement shall be deemed to be works for hire and are and shall be the exclusive property of City. At City's request, Contractor will execute all documents reasonably required to confirm or perfect ownership of such Works and any corresponding copyright rights in and to such Works in City. Without the prior written consent of City, Contractor shall not use, copy or prepare derivative works of the Works, or any parts of them, other than as related to the performance of this Agreement. During the performance of this Agreement, Contractor shall be responsible for loss or damage to the Works while they are in Contractor's possession or control. Any loss or damage shall be restored at Contractor's expense. City shall have free and unlimited access to the Works at all times and, upon demand, shall have the right to claim and take possession of the Works and all copies. Notwithstanding the foregoing, Contractor shall be entitled to retain a set of its work papers for archival purposes only, in accordance with applicable professional standards.

5.06.3 Contractor shall retain all rights in and to its know-how, methods, techniques, discoveries, concepts, and ideas, whether patentable or not, and whether possessed by Contractor prior to or acquired by Contractor during the performance of this Agreement. Contractor also shall retain all rights in and to all works of authorship fixed in a tangible medium of expression which were made, created or acquired by Contractor prior to the effective date of



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this Agreement ("Pre-Existing Works"), provided that a listing of such Pre-Existing Works is attached to this Agreement.

5.07 Insurance. Contractor shall, as a condition precedent to this Agreement, purchase and thereafter maintain such insurance as will protect it and City from the claims set forth below which may arise out of or result from Contractor's operations under this Agreement, whether such operations be by Contractor or by its subcontractors or by anyone directly or indirectly employed by any of them, or by anyone directly for whose acts any of them may be liable:

- 1) Claims under Worker's Compensation and Occupational Disease Acts, and any other employee benefits acts applicable to the performance of the work;
- 2) Claims for damages because of bodily injury and personal injury, including death, and;
- 3) Claims for damages to property.

Contractor's insurance shall be not less than the amounts shown below:

A. Commercial General Liability (Occurrence Basis)

Bodily Injury, personal injury, property damage, Contractual liability, product/completed operations

Each Occurrence Limit \$1,000,000.00

Damage to Rented Premises \$100,000.00 (each occurrence)

Medical Expense Limit \$5,000.00

Personal and Advertising Injury Limit \$500,000.00

General Aggregate Limit \$2,000,000.00 (Other than Products Completed Operations)

NOTE: GENERAL AGGREGATE TO APPLY PER PROJECT

Products/Completed Operations \$1,000,000.00

B. Auto Liability \$1,000,000.00 (combined single limit) (owned, hired & non-owned)

C. Excess/Umbrella Liability \$1,000,000 (each occurrence and aggregate)

D. Worker's Compensation Statutory

E. Employer's Liability



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Bodily Injury Accident	\$100,000 each accident
Bodily Injury by Disease	\$100,000 each employee
Bodily Injury by Disease	\$500,000 policy limit

F. [Reserved for Professional Liability or additional riders as needed]

5.07.1 Certificates of Insurance, naming the Consolidated City of Indianapolis and Marion County as an "additional insured," (A. B. and C. only) showing such coverage then in force (but not less than the amount shown above) shall be filed with City prior to commencement of any work. These certificates shall contain a provision that the policies and the coverage afforded will not be canceled until at least thirty (30) days after written notice has been given to City.

5.07.2 With the prior approval of City, Contractor may substitute different types of coverage for those specified as long as the total amount of required protection is not reduced. Contractor shall be responsible for all deductibles.

5.07.3 Nothing in the above provisions shall operate as or be construed as limiting the amount of liability of Contractor to the above enumerated amounts.

5.08 Termination for Cause or Convenience.

5.08.1 If Contractor becomes insolvent, or if it refuses or fails to perform the work and services provided by this Agreement, or if it refuses to perform disputed work or services as directed pending resolution of such dispute, or if it fails to make payments to subcontractors employed by it, or if it otherwise violates or fails to perform any term, covenant or provision of this Agreement, then City may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part, in writing, provided that Contractor shall be given (1) not less than ten (10) calendar days written notice of City's intent to terminate, and (2) an opportunity for consultation with City prior to termination. In determining the amount of final payment to be made to Contractor upon such termination for default, if any, no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be made to the extent of any additional costs incurred or reasonably foreseen by City to be incurred by reason of Contractor's default.

5.08.2 This Agreement may be terminated in whole or in part in writing by City for City's convenience; provided that Contractor is given (1) not less than ten (10) calendar days written notice of intent to terminate and (2) an opportunity for consultation with City prior to termination. If City terminates for convenience, Contractor's compensation shall be equitably adjusted.

5.08.3 Upon receipt of notice of termination for default or for City's convenience, Contractor shall (1) promptly discontinue all services affected, unless the termination notice directs otherwise, and (2) deliver or otherwise make available to City all Works and such other



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information, materials or documents as may have been accumulated by Contractor in performing this Agreement, whether completed or in process.

5.08.4 If, after termination for Contractor's default, it is determined that Contractor was not in default, the termination shall be deemed to have been made for the convenience of City. In such event, adjustment of the price provided for in this Agreement shall be made as provided in Section 5.08.2 and the recovery of such price adjustment shall be Contractor's sole remedy and recovery.

5.09 Termination for Failure of Funding. Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by City are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then City shall have the right to terminate this Agreement without penalty by giving written notice documenting the lack of funding, in which instance this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. City agrees that it will make its best efforts to obtain sufficient funds, including but not limited to, requesting in its budget for each fiscal period during the term hereof sufficient funds to meet its obligations hereunder in full.

5.10 Indemnification. Contractor agrees to indemnify, defend, and hold harmless the City of Indianapolis, Marion County and their respective officers, agents, officials and employees for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission or breach of any provision of this Agreement by Contractor or any of its officers, agents, employees or subcontractors regardless of whether or not it is caused in part by the negligence of a party indemnified hereunder.

Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein. City shall not provide such indemnification to Contractor, provided, however, that Contractor shall be relieved of its indemnification obligation to the extent any injury, damage, death or loss is attributable to the acts or omissions of City.

5.11 Notice. Any notice required to be sent under this Agreement shall be sent by internationally recognized overnight courier, certified mail, facsimile or other delivery method which provides confirmation of receipt and shall be directed to the persons and addresses specified below (or such other persons and/or addresses as any party may indicate by giving notice to the other party) :

To Contractor:

To City:



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5.12 Disputes. Contractor shall carry on all work required under this Agreement and maintain the schedule for services during all disputes or disagreements with City. No work shall be delayed or postponed pending resolution of any disputes or disagreements except as Contractor and City may otherwise agree in writing. Should Contractor fail to continue to perform its responsibilities as regards all non-disputed work without delay, any additional costs incurred by City or Contractor as a result of such failure to proceed shall be borne by Contractor, and Contractor shall make no claim against the City for such costs. City may withhold payments on disputed items pending resolution of the dispute.

5.13 Non-discrimination. Contractor and its officers, agents, employees, and subcontractors shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States military service veteran status. Breach of this section shall be regarded as a material breach of this Agreement.

5.14 Conflict of Interest.

5.14.1 Contractor certifies and warrants to City that neither it nor any of its officers, agents, employees, or subcontractors who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, with City.

5.14.2 For purposes of compliance with IC 36-1-21, Contractor certifies and warrants to City that Contractor, or a person who wholly or partially owns Contractor, is not a relative, as that term is defined by IC 36-1-21-3, of either the Mayor of Indianapolis, Indiana, or a member of the City-County Council of Indianapolis and Marion County, Indiana.

5.15 Non-contingent Fees. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty City shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

5.16 Force Majeure. In the event that either party is unable to perform any of its obligations under this Agreement – or to enjoy any of its benefits – because of fire, explosion, power blackout, natural disaster, strike, embargo, labor disputes, war, terrorism, acts of God, acts or decrees of governmental bodies or other causes beyond such party's reasonable control (hereinafter referred to as Force Majeure Event), the party who has been so affected shall immediately give notice to the other and shall take commercially reasonable actions to resume performance. Upon receipt of such notice, all obligations under this Agreement shall immediately be suspended except for payment obligations with respect to service already provided. If the period of nonperformance exceeds sixty (60) days from the receipt of the Force



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Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

5.17 Applicable Laws; Forum.

5.17.1 Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, and all provisions required thereby to be included in this Agreement are hereby incorporated by reference. This includes, but is not limited to, the Federal Civil Rights Act of 1964 and, if applicable, the Drug-Free Workplace Act of 1988. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by City and Contractor to determine whether the provisions of the Agreement require formal modification.

5.17.2 This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable Municipal Ordinance or Codes of the Consolidated City of Indianapolis, County of Marion. Suit, if any, shall be brought in the State of Indiana, County of Marion.

5.18 Waiver. City's delay or inaction in pursuing its remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of City's rights or remedies.

5.19 Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the provision shall be stricken, and all other provisions of this Agreement which can operate independently of such stricken provisions shall continue in full force and effect.

5.20 Attorneys' Fees. Contractor shall be liable to City for reasonable attorneys' fees incurred by City in connection with the collection or attempt to collect, any damages arising from the negligent or wrongful act or omission of Contractor, or from Contractor's failure to fulfill any provisions or responsibility provided herein.

5.21 Successors and Assigns. City and Contractor each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as otherwise provided herein, Contractor shall not assign, sublet or transfer its interest in this Agreement without the written consent of City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of City.

5.22 Authority to Bind Contractor. Notwithstanding anything in this Agreement to the contrary, the signatory for Contractor represents that he/she has been duly authorized to execute agreements on behalf of Contractor and has obtained all necessary or applicable approval from the home office of Contractor to make this Agreement fully binding upon Contractor when his/her signature is affixed and accepted by City.

5.23 Debarment and Suspension



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5.23.1 Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from or ineligible for participation in any Federal assistance program by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Contractor.

5.23.2 Contractor certifies, by entering into this Agreement, that it does not engage in investment activities in Iran as more particularly described in IC 5-22-16.5.

5.23.3 Contractor shall provide immediate written notice to City if, at any time after entering into this Agreement, Contractor learns that its certifications were erroneous when submitted, or Contractor is debarred, suspended, proposed for debarment, declared ineligible, has been included on a list or received notice of intent to include on a list created pursuant to IC 5-22-16.5, voluntarily excluded from or becomes ineligible for participation in any Federal assistance program. Any such event shall be cause for termination of this Agreement as provided herein.

5.23.4 Contractor shall not subcontract with any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in any Federal assistance programs by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana.

5.24 Compliance With E-Verify Program. Pursuant to IC 22-5-1.7, Contractor shall enroll in and verify the work eligibility status of all newly hired employees of Contractor through the E-Verify Program ("Program"). Contractor is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists.

5.24.1 Contractor and its subcontractors shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that Contractor or its subcontractor subsequently learns is an unauthorized alien. If Contractor violates this Section 5.24, City shall require Contractor to remedy the violation not later than thirty (30) days after City notifies Contractor. If Contractor fails to remedy the violation within the thirty (30) day period, City shall terminate the contract for breach of contract. If City terminates the contract, Contractor shall, in addition to any other contractual remedies, be liable to City for actual damages. There is a rebuttable presumption that Contractor did not knowingly employ an unauthorized alien if Contractor verified the work eligibility status of the employee through the Program.

5.24.2 If Contractor employs or contracts with an unauthorized alien but City determines that terminating the contract would be detrimental to the public interest or public property, City may allow the contract to remain in effect until City procures a new contractor.

5.24.3 Contractor shall, prior to performing any work, require each subcontractor to certify to Contractor that the subcontractor does not knowingly employ or contract with an unauthorized



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alien and has enrolled in the Program. Contractor shall maintain on file a certification from each subcontractor throughout the duration of the Project. If Contractor determines that a subcontractor is in violation of this Section 5.24, Contractor may terminate its contract with the subcontractor for such violation.

5.24.4 Pursuant to IC 22-5-1.7 a fully executed affidavit affirming that the business entity does not knowingly employ an unauthorized alien and confirming Contractors enrollment in the Program, unless the Program no longer exists, shall be filed with City prior to the execution of this Agreement. This Agreement shall not be deemed fully executed until such affidavit is filed with the City.

5.25 Key Persons. The parties agree that the work described in this Agreement to be performed by Contractor is a personal service, highly professional in nature, and that the identity of the individual who is to be personally responsible for such work is of prime importance to City. The parties therefore agree that in the event of the death or disability of Contractor, or, if Contractor is a firm, partnership, or corporation, in the event of the death, or disability or termination of employment of anyone understood to be personally responsible for the work described in this Agreement, City may, without penalty and in its discretion, terminate this Agreement, and make its own new Agreement with any other party for completion of the work herein described.

5.26 Ban the Box. Contractor acknowledges Sections 671-102 to 671-108 of the Revised Code of the Consolidated City of Indianapolis and Marion County and will make available its policies, practices and standards for the hiring of applicants with prior criminal convictions upon the City's request.



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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates subscribed below.

CONTRACTOR NAME ("Contractor")

By: _____

Date: _____

Printed: _____

Title: _____

CONSOLIDATED CITY OF INDIANAPOLIS XXXXXXXXX ("City")

By: _____
XXXXXX, XXXXXX

Date: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
XXXXXX, Assistant Corporation Counsel

Date: _____

APPROVED AS TO AVAILABILITY OF FUNDING:

By: _____
Fady Qaddoura, City Controller

Date: _____

APPROVED FOR EXECUTION:

Joseph H. Hogsett, Mayor
City of Indianapolis
By Mayor's Designee:

By: _____
Andrew J. Mallon, Corporation Counsel

Date: _____



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ATTACHMENT A: SCOPE OF SERVICES

In accordance with the terms and conditions of the attached Professional Services Agreement (hereinafter "Agreement") by and between the Consolidated City of Indianapolis and Marion County, XXXXX (hereinafter "City") and XXXXXXXX (hereinafter "Contractor"), Contractor shall do, perform, and carry out in a good and professional manner the following services:



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E-Verify Affidavit

Pursuant to Indiana Code 22-5-1.7-11, the Contractor entering into a contract with the City is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program. The Contractor is not required to verify the work eligibility status of all its newly hired employees through the E-Verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Contractor, being first duly sworn, deposes and states that the Contractor does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into its contract with the City, the undersigned Contractor will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

(Contractor): _____

By (Written Signature):

(Printed Name): _____

(Title): _____

Important - Notary Signature and Seal Required in the Space Below

STATE OF _____

SS:

COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20 ____

My commission expires: _____ (Signed) _____

Residing in _____ County, State of _____